

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

IN THE MATTER OF S.B., A MINOR)
STUDENT, BY AND THROUGH HIS)
PARENTS, M.B. AND L.H.;)

M.S., A MINOR STUDENT, BY AND)
THROUGH HER PARENT, K.P.)

T.W., A MINOR STUDENT, BY AND)
THROUGH HIS PARENTS, M.W. AND J.W.)

And)

M.K., A MINOR STUDENT, BY AND)
THROUGH HER PARENT, S.K)

Plaintiffs,)

) No. 3:21-cv-00317-JRG-DCP

v.)

GOVERNOR BILL LEE, in his official)
Capacity as GOVERNOR OF TENNESSEE)
And KNOX COUNTY BOARD OF)
EDUCATION)

Defendants,)

And)

M.M, A STUDENT WHO HAS REACHED THE)
AGE OF MAJORITY, and E.M. and D.M., MINOR)
STUDENTS, BY AND THROUGH THEIR)
PARENT, P.M.)

Intervenors-Defendants.)

PROPOSED INTERVENOR-DEFENDANTS' OBJECTION TO THE ORDER FILED
ON APRIL 27, 2022, PURSUANT TO FED. R. CIV. P. 46; AND MOTION TO ALTER
OR AMEND PURSUANT TO FED. R. CIV. P. 59.04

Proposed Intervenor-Defendants, MM, EM, and DM (collectively, Intervenors), object to
the order filed on April 27, 2022 [Doc. 133], dismissing their motion to intervene as moot,

and move this Court to alter or amend this order pursuant to Fed. R. Civ. P 59(e). Intervenor state:

1. Although most precedent on intervention is geared towards parties who attempt to intervene as plaintiffs, an intervenor defendant may continue to litigate issues that are settled by a consent decree by original parties. See, e.g., Local No. 93, Intern. Ass'n of Firefighters, AFL-CIO C.L.C. v. City of Cleveland, 478 U.S. 501, 529 (1986); Benavidez v. Eu, 34 F.3d 825, 830 (9th Cir. 1994), citing Horn v. Eltra Corp., 686 F.2d 439, 440 (6th Cir. 1982).

2. Plaintiffs continue to assert substantive issues in which Intervenor have an interest. Plaintiffs seek a permanent injunction against Executive Order 84, which provided parents the opportunity to have their children opt out of a face covering mandate imposed by a local school system. Intervenor have an interest in the ability of Tennessee Gov. Bill Lee to issue executive orders preserving constitutional rights over bodily autonomy, regardless of whether Plaintiffs' proposed ADA remedy is effective or not.

3. Intervenor seek the amendment of this Court's order, so that Intervenor's Motion to Intervene [Doc. 115] is not denied as moot, but is instead restored to the active docket, with the parties resuming the briefing schedule.

Respectfully submitted this 25th day of May, 2022.

s/ W. Andrew Fox
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Certificate of Service

I hereby certify that on the 25th day of May, 2022, I electronically filed the foregoing document with the Clerk of Court and that the foregoing document will be served via the CM/ECF system on all counsel of record.

s/ W. Andrew Fox

W. Andrew Fox

Attorney for Intervenor-Defendants